REMARKS

Applicants thank the Examiner for taking the time to conduct an interview on Thursday April 2, 2009. The Office Action mailed January 5, 2009 has been carefully considered. In this Office Action, Claims 1-16 were rejected and remain pending. Claims 17-24 were previously cancelled without prejudice. In the filing of this response, Claims 1 and 9 have been amended and no new matter has been added. Claims 2-8 and 10-16 depend on independent Claims 1 and 9. Claim 9 is the system version of the method of Claim 1. For the sake of brevity these rejections will be argued together.

In the Office Action, Claims 1-16 were rejected under 35 USC 103 as being unpatneable over Hartsell et al (2002/0065864) hereinafter Hartsell, in view of Carlson et al. (7,133,907), hereinafter Carlson. During the Examiner's interview Applicants clarified the invention with respect to the cited art. Applicants believe these differences are embodied in the claims. Per the Examiner's interview, Applicants believe that Hartsell and Carlson can not server as a proper 35 USC 103 reference as Hartsell and Carlson do not satisfy the KSR test as promulgated by the Supreme Court. In particular Applicants assert that these references do not disclose, at least, "wherein the performance characteristics comprise I/O operations comprising a number of read hits, read misses, least recently used writes, and write pending operations" or "displaying the recommended configuration of the target storage system."

In *Teleflex v. KSR,* the Supreme Court stated that a proper 35 USC 103 rejection requires the following steps be performed: (1) Determining the scope and content of the prior art; (2) Ascertaining the differences between the claimed invention and the prior art; and (3) Resolving the level of ordinary skill in the pertinent art. *Teleflex Inc. v. KSR Int'l Co.* 127 S.Ct. 1727, 1741,

82 USPQ.2d 1385, 1396 (2007). This three part test has also been reemphasized and

promulgated in the Federal Register. *Federal Register*, Vol. 72, No. 195.

With respect to the first prong of KSR, Applicants first address the scope of Hartsell.

Hartsell states he discloses "[m]ethods and systems for providing differentiated service that may

be employed . . .to deliver content or services in a network environment." As well, Hartsel

states that his "methods and systems may include or facilitate provisioning of system service

parameters such as service level agreement ("SLA") policies and may be employed in network

computing system environments to enable differentiated service provisioning . . . in accordance

with business objectives." For example, Hartsell states "deterministic management of

information may be implemented to extend network traffic management principles to achieve a

true end-to-end quality experience . . . all the way to the stored content in a content delivery

system environment."

With respect to the first prong of KSR, Applicants now address the scope of Carlson.

Carlson states he provides "a method, system, and program for configuring multiple resources in

a system." In the background of his invention he states"[i]n the current art, to add or modify the

allocation of storage or other resources in a SAN, an administrator must separately utilize

different software programs to configure the SAN resources to reflect the modification to the

storage allocation." Carlson also states "for the above reasons, there is a need in the art for

improved techniques for managing and configuring the allocation of resources in such a large

network, such as a SAN." Carlson states that "the administrator may select from a drop down

menu a predefined configuration service policy to use to configure the selected host, e.g., bronze,

silver, gold, platinum, etc." Applicants respectfully assert that Carlson configures "configuration parameters" "to configure the selected resource instances."

With respect to the second prong of KSR, the differences between the claimed invention and the cited art, Applicants respectfully assert that neither Carlson or Hartsell disclose, at least, "wherein the performance characteristics comprise I/O operations comprising a number of read hits, read misses, least recently used writes, and write pending operations" or "displaying the recommended configuration of the target storage system." Further, Claim 1 states "receiving . . . identifiers of one or more source data storage systems . . . plurality of components . . . receiving utilization or response time data . . .receiving performance characteristics . . . receiving . . . components to be included in a target data storage system . . . determining a recommended configuration of the target storage system by analyzing . . .; and displaying the recommended configuration of the target storage system." Conversely, Hartsell is concerned with SLAs and Carson is concerned with "configuration parameters" "to configure the selected resource instances" for "allocation of storage or other resources in a SAN." However, Applicants assert neither reference is directed towards "determining a recommended configuration" and "displaying the recommended configuration."

Addressing the third prong of KSR, Applicants further assert that one skilled in the relevant computer arts would not bridge the gap to arrive at the current invention. Therefore, Applicants respectfully assert that these references, in combination or in isolation, fail to satisfy the 35 USC 103 test as promulgated by the Supreme Court in KSR. As a result, Applicants assert that this 35 USC 103 rejection is improper and respectfully request it be withdrawn and Claims 1 and 9 be placed in condition for allowance. Claims 2-8 and 10-16 depend on independent

Claims 1 and 9. As Applicants believe that Claims 1 and 9 are now in condition for allowance, Applicants believe that dependant Claims 2-8 and 10-16 should be allowable for at least the same reasons. Based on the amended claims, Applicants respectfully request consideration, removal of the aforementioned rejections and that the claims be placed in condition for allowance.

Conclusion

In view of the foregoing, the Applicants believe that the application is in condition for allowance and respectfully request favorable reconsideration.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at (508) 293-7450.

Please charge all fees occasioned by this submission to Deposit Account No. 05-0889.

Respectfully submitted,

Dated: _____April 6, 2009_____   ___/Joseph D'Angelo/_____
                                          Joseph J. D'Angelo (Reg. No. 56,800)
                                          Attorney for Applicants
                                          EMC Corporation
                                          Office of General Counsel
                                          176 South Street
                                          Hopkinton, MA 01748
                                          Telephone: (508) 293-7450
                                          Facsimile: (508) 293-7189